S.B. CRIMINAL MISC. IIND BAIL NO.4915/2007
(Gendu Kanwar Vs. State of Rajasthan)

Date of Order :: 10.10.2007

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr.B.S. Rathore, for the applicant.
Mr.Vishnu Kachwaha, Public Prosecutor.
Mr.Harish Purohit, for the complainant.

Heard learned counsel for the parties and perused the impugned order dated 13.08.2007.

It is contended by learned counsel for the applicant that earlier the bail application of the applicant was disposed of observing that the applicant is at liberty to file fresh bail application after filing of challan. It is also contended that there is mention in the admission ticket of hospital that deceased herself said that she was burnt at the time of cooking food and the same thing is also mentioned by the doctor. It is further contended that at the time of death and handing-over the body, the father of deceased and her brother were present and they put their

signatures upon panchnama. They were very much knowing that death was due to burn injuries received at the time of cooking food which was an accident and not an incident of immolation. But after 35 days, only on the basis of statement of Kumari Sonu as well as on the basis of fact that at 11:45 PM when they reached hospital, they were informed by the deceased that applicant Gendu Kanwar has burnt her and though she had reason for it but did not disclose the same. Therefore, in the facts and circumstances of the case, the prosecution case appears to be falsely set up against the applicant. Hence, the applicant is entitled to be released on bail.

On the other hand, learned counsel for the respondent vehemently opposed the prayer of the applicant and contended that as per statement of Kumari Sonu, there was illicit relationship between Gendu Kanwar and Tej Singh. It is also contended that there is no signature of deceased upon the bed-head ticket where it is mentioned by the doctor that death is due to burns received at the time of cooking food, therefore, it cannot be treated to be piece of evidence for the purpose of

arriving at the conclusion as to the reason of death. It is also contended that in the statement of Kumari Sonu recorded under Section 161 Cr.P.C. as well as in the statement recorded under Section 164 Cr.P.C., there is specific allegation levelled by the daughter of Tej Singh against him with regard to illicit relationship and frequent quarrels with the deceased.

Having considered the submissions of learned counsel for the respective parties, in my opinion, when Kumari Sonu daughter of deceased and accused Tej Singh gave her statement under Section 164 Cr.P.C. during investigation in which allegation of illicit relationship of Tej Singh - husband of deceased with Gendu Kanwar and certain allegations with regard to quarrel with deceased by Tej Singh and Gendu Kanwar were made, it is not proper to enlarge the applicant on bail at this stage.

Accordingly, the present bail application is dismissed.

(GOPAL KRISHAN VYAS),J.

A.K. Chouhan/-